MT LEGISLATIVE HISTORY

Chapter 370 1987

Bill H 53 S _____

Original bill & hist. no ___C

original bill 115pg

Code Comm's. R P

H. Committee on Judiciary

Hearing Date(s) _____ ___C

1/9 ✓C

_____ ___C

_____ ___C

Date Out 1/9 ✓C

S. Committee on Judiciary

Hearing Date(s) _____ ___C

3/3 ✓C

_____ ___C

_____ ___C

3/11 ✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

HOUSE BILL NO. 53

INTRODUCED BY EUDAILY

BY REQUEST OF THE CODE COMMISSIONER

IN THE HOUSE

JANUARY 5, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
JANUARY 12, 1987	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 13, 1987	PRINTING REPORT.
JANUARY 14, 1987	SECOND READING, DO PASS.
JANUARY 15, 1987	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 95; NOES, 3.
	TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 21, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
MARCH 12, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 17, 1987	SECOND READING, CONCURRED IN AS AMENDED.
MARCH 19, 1987	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 25, 1987	RECEIVED FROM SENATE.
	SECOND READING, AMENDMENTS CONCURRED IN.
MARCH 26, 1987	THIRD READING, AMENDMENTS CONCURRED IN.
	SENT TO ENROLLING.

CODE COMMISSIONER REPORT

1986

1987 CODE COMMISSIONER BILL SUMMARY

Section 1. 2-15-1857. Makes permanent bracketed language inserted to clarify that the governor has the appointing power.

Section 2. 2-18-703. In (4) substitutes "department of administration" for "department" which is not defined.

Section 3. 5-11-206. In (3) substitutes "code sections affected list" for "code index" to accurately reflect the content of the document.

Section 4. 5-11-208. Revises internal reference which included 5-11-204, the section authorizing the secretary of state to assign chapter numbers, not the legislative council.

Section 5. 7-2-2730. Section 6. 7-2-2748. Section 7. 7-2-2749. Revise reference to reflect repeal of 7-7-2105.

Section 8. 7-3-4264. Section 9. 7-3-4265. Revise reference to reflect repeal of 7-3-4263.

Section 10. 7-4-2631. In (1)(j) clarifies that fees are no longer contained in the statutes but are set by rule. (See 30-9-403(5) and (12).)

Section 11. 7-6-308. Removes reference to "7-6-304" because mill values are not used in that section.

Section 12. 7-6-4423. In (1)(c) substitutes "7-12-4182" for "7-12-4181" because that is the section providing for declaring the assessment delinquent.

Section 13. 7-6-4439. Revises reference to reflect repeal of 7-6-4433 and 7-6-4435.

Section 14. 7-6-4463. Revises outline form to remove internal inconsistency.

Section 15. 7-7-2302. Revises reference to reflect repeal of 7-7-2208 and 7-7-2271.

Section 16. 7-7-4302. Revises reference to reflect repeal of 7-7-4207 and 7-7-4271.

Section 17. 7-12-1103. Substitutes "7-12-1121" for "7-12-1112" to reflect that board of trustees is authorized in 7-12-1121.

Section 18. 7-12-4429. In (2) substitutes "7-12-4402" for "7-12-4405" because districts are created under 7-12-4402.

Section 19. 7-13-114. Deletes reference to "the powers and duties of the county commissioners" because not all sections referred to relate to county commissioners and adds language clarifying that the referenced sections are inapplicable if in conflict with Title 7, chapter 13, part 1.

Section 20. 7-13-2242. Substitutes "7-13-2239" for "7-13-2240" because 7-13-2239 contains the requirement for naming the person to whom the petition is returned.

Section 21. 7-13-2510. Section 22. 7-14-1133. Section 23. 7-14-2745. Section 25. 7-15-4322. Section 26. 7-31-112. Section 29. 7-34-2415. Section 71. 20-9-410. Section 128. 67-11-303. Section 129. 69-4-332. Clarify that 17-5-102 no longer limits interest but allows the governing body to set interest rates.

Section 24. 7-14-2823. In (2)(a) and (2)(c) inserts "on" for grammatical reasons.

Section 27. 7-32-4153. Revises reference to reflect the fact that the word "mayor" is not used in 7-32-4155 through 7-32-4159.

Section 28. 7-34-2131. Removes reference to "second or third class" school districts because there is no longer a difference in bonding for districts based on class.

Section 30. 10-4-101. Section 36. 15-6-135. Section 37. 15-8-111. Section 38. 15-8-201. Section 44. 15-23-701. Section 45. 15-24-901. Section 66. 20-3-108. Section 76. 30-10-103. Section 77. 30-10-204. Section 84. 33-20-1111. Section 90. 37-16-404. Section 93. 37-51-301. Section 94. 37-72-101. Section 97. 39-71-403. Section 105. 46-18-222. Section 106. 46-18-231. Section 107. 46-19-103. Section 111. 53-5-503. Section 112. 53-6-141. Section 113. 53-20-202. Section 115. 61-5-121. Section 131. 71-3-302. Section 138. 75-1-1101. Section 143. 82-4-232. Section 145. 85-2-322. Section 148. 85-2-507. Section 149. 85-8-350. Section 154. 90-8-104. Correct erroneous subsection references.

Section 31. 13-1-101. In (10) substitutes "or" for "and" because reference should be disjunctive rather than conjunctive.

Section 32. 13-1-203. Removes reference to mileage and expenses "for county officials" because 2-18-501 through 2-18-503 set rates for all state employees.

Section 33. 13-17-103. In (8) substitutes "is" for "will be" to reflect contractual requirement rather than future provision.

Section 34. 13-37-303. In (1) in last sentence inserts "to" for proper grammar.

Section 35. 15-1-101. Section 46. 15-24-1102. Section 47. 15-24-1103. Extend reference to include all classes of property.

Section 39. 15-10-203. Section 40. 15-10-204. Insert "or proposed" before "budget" to reflect name change of county preliminary budget created by Ch. 206, L. 1985.

Section 41. 15-16-305. Substitutes third "Tuesday" of February for third "Monday" because third Monday is Washington's birthday, a legal holiday.

Section 42. 15-17-101. Moves "that" in lead-in phrase for proper outline form.

Section 43. 15-23-616. Deletes reference to "net proceeds" because 15-23-602 does not use that phrase.

Section 48. 15-30-111. In (2)(i) inserts reference to 19-13-1003, to reflect tax exemption contained in firefighters' unified retirement system.

Section 49. 15-30-321. In (1) in second parenthetical makes language consistent with first parenthetical.

Section 50. 15-31-406. Revises reference to reflect repeal of 15-31-542.

Section 51. 15-35-102. In (12) revises definition to reflect that "surface mining" is not defined in 82-4-203.

Section 52. 15-59-121. Revises reference to reflect repeal of 15-59-103 and renumbering of 15-59-111 as this section.

Section 53. 16-1-105. Revises section to reflect repeal of Title 16, chapter 5.

Section 54. 16-1-306. Inserts references to reflect statutory assignment of revenues.

Section 55. 17-5-1202. Corrects improper citation to federal act.

Section 56. 17-6-103. Adds reference to bonds issued under Title 7, chapter 12, part 42, for consistency because part 42 is a continuation of part 41.

Section 57. 17-6-302. Substitutes "17-6-306" for "17-6-305" to reflect establishment of fund in 17-6-306.

Section 58. 18-1-103. In (1) and (4) deletes "18-1-112" because "resident" is not used in 18-1-112.

Section 59. 18-2-201. In (1) substitutes "85-1-219" for "18-1-219" to correct a typographical error and to correctly reflect codification of section 1 of Ch. 498, L. 1985. In (3) inserts "of" for grammatical purposes.

Section 60. 19-3-906. In (2)(b) inserts "he" for grammatical purposes to conform with (2)(a).

Section 61. 19-4-902. Revises section to reflect that only superannuation "allowance" is prescribed under Title 19, chapter 4, part 8.

Section 62. 19-7-101. Section 63. 19-7-405. Delete references to sheriffs' retirement board which no longer exists. System is administered by public employees retirement board.

Section 64. 19-10-202. In (2) in four places inserts references to town to reflect the content of the section.

Section 65. 19-11-203. Deletes reference to Title 19, chapter 11, part 3, which was repealed.

Section 67. 20-5-301. In (3)(e) revises text for proper outline form.

Section 68. 20-7-117. In (1) in two places substitutes "have" for "has" for proper grammatical use of tense.

Section 69. 20-9-165. Deletes "in accordance with 20-15-302" to reflect repeal of 20-15-302.

Section 70. 20-9-343. In (3)(c) inserts language to reflect distribution of funds under 15-35-108, in (3)(g) deletes redundant language, and in (4) removes bracketed language because there is no longer a permissive account.

Section 72. 20-15-403. Deletes reference to 7-8-2215 because "school district" is not used in that section.

Section 73. 20-15-404. In (4) extends reference to include 20-7-713.

Section 74. 20-25-302. At end of (2) clarifies that nonresident students are not defined in 20-25-421, but that charges are made under 20-25-421 for nonresident students.

Section 75. 30-4-302. Numbers subsections to reflect MCA style.

Section 78. 32-1-803. Revises reference to reflect repeal of 32-1-304.

Section 79. 33-1-104. Section 80. 33-1-313. Section 81. 33-1-317. Section 85. 33-30-111. Section 86. 33-30-112. Section 87. 33-30-113. Section 88. NEW. Make 33-30-1012, which was enacted without a codification instruction, subject to the general provisions of the insurance law.

Section 82. 33-17-211. In (9) clarifies that 33-17-212 requires an examination but does not prescribe the examination fee.

Section 83. 33-20-103. Revises reference to reflect renumbering of 33-20-109 as 33-20-131.

Section 89. 35-12-1308. Revises reference to reflect that this section itself is not included in those which may be violated.

Section 91. 37-30-425. In (7) revises language to conform to 37-30-203, which does not describe offenses but grants rulemaking authority.

Section 92. 37-42-305. Deletes reference to 37-42-301 because it does not refer to an examination.

Section 95. 39-51-201. In (4) hyphenates "52-consecutive-week" for proper usage, and in (11) inserts "to be paid" for readability.

Section 96. 39-71-118. In (1)(d) substitutes "superintendent of public instruction" for "board of public education" to reflect the superintendent's authority to approve vo-tech programs.

Section 98. 40-4-209. In (5) clarifies that the department of revenue is the agency to adopt guidelines for child support enforcement.

Section 99. 41-3-611. Substitutes "41-3-610" for "41-3-609" because other placement proceedings are held pursuant to 41-3-610.

Section 100. 41-5-206. Deletes (1)(a)(ii)(F) because it is covered under (1)(a)(i) and applies to youths over 12, and corrects internal reference as a result of this change.

Section 101. 41-5-523. In (2) inserts "a" for grammatical reasons.

Section 102. 44-1-403. Substitutes "five" for "12" to reflect the proper number of highway districts.

Section 103. 44-1-1005. In (3) substitutes "provided for" for "defined" because subsection (1)(a) does not define motor vehicle inspections but grants rulemaking authority.

Section 104. 46-18-201. In (4) corrects reference and adds language to clarify that the mandatory minimum sentence applies to aggravated assault rather than felony assault.

Section 108. 50-5-101. In (19) substitutes "youth care facilities" for "boarding or foster homes for children" to reflect the terminology used in Title 41, chapter 3.

Section 109. 50-73-102. Deletes definition of "following shot" because it is not used in Title 50, chapter 73.

Section 110. 53-2-813. Deletes reference to subsection (1)(b) and deletes the subsection in its entirety because it is no longer applicable.

Section 114. 61-3-102. Makes permanent the bracketed language "in performing its duties under this title".

Section 116. 61-9-402. In (6) deletes reference to subsections (1), (2), and (3) because amber lights aren't mentioned in those subsections.

Section 117. 61-10-108. Section 118. 61-10-122. Section 119. 61-10-124. Section 120. 61-01-128. Section 121. 61-10-141. Section 122. 61-10-142. Section 123. 61-10-143. Clarify that department referred to is highways. Title definition found in 61-1-301 refers to department of justice.

Section 124. 61-11-203. Makes subsection (3) freestanding for proper outline form.

Section 125. 67-3-101. In (2) inserts "sales" before "dealers" to conform to first clause of (2).

Section 126. 67-3-201. Section 127. 67-3-202. Clarify that subsection (3) of 67-3-201 applies to itself.

Section 130. 69-14-805. Revises reference to reflect repeal of 69-14-802.

Section 132. 71-3-603. In (1) substitutes "71-3-605" for "71-3-606" because 71-3-605 provides for filing by the lien claimant, and in (2) substitutes "71-3-606" for "71-3-605" because 71-3-606 provides for filing the claim of the landowner.

Section 133. 71-3-611. Substitutes "71-3-603" for "71-3-605" because 71-3-603 contains the 3-month time limit.

Section 134. 72-11-103. Substitutes "an ancestor" for "the ancestors" for grammatical propriety.

Section 135. 72-16-454. Substitutes "35%" for "65%" to reflect 1983 amendment of 72-16-452.

Section 136. 72-17-206. Substitutes "72-17-301(2)" for "72-17-310(2)" in two places to correct error and reflect renumbering of sections.

Section 137. 72-17-311. Removes an unclear reference to a subsection and rearranges terms for clarity.

Section 139. 75-20-216. Revises reference to reflect repeal of 75-20-214.

Section 140. 76-3-103. In (12) and (13) removes reference to former title of act and makes parenthetical code citation permanent.

Section 141. 80-4-427. Substitutes "80-4-428" for "80-4-429" because the criminal penalty for operating without a license is found in 80-4-428.

Section 142. 81-8-216. In two places revises reference to reflect repeal of 81-8-257.

Section 144. 82-11-131. Revises last sentence for comprehension.

Section 146. 85-2-421. Section 147. 85-2-422. Revise reference to reflect repeal of 85-2-425.

Section 150. 85-8-624. In (3)(a), (3)(c), and (3)(d) corrects erroneous subsection reference, and in (3)(b) substitutes "85-8-302" for "85-8-304" because 85-8-302 provides for the manner of conducting the election.

Section 151. 87-1-209. Clarifies that the notice requirement is found in subsection (3)(b) of this section.

Section 152. 87-3-101. Substitutes "61-1-202" for "61-1-201" because 61-1-202 defines public highway.

Section 153. 87-5-109. At end of (2) substitutes "87-5-105" for "87-5-104" because 87-5-105 grants the authority for issuing regulations.

Section 155. NEW. Requested by department of social and rehabilitation services to revise archaic terminology.

Section 156. Repealer. (1) Section 2-17-106 is no longer necessary, particularly because of the construction of the DNRC building. Section 2-17-101 governs space assignment generally.
(2) Section 2-17-109 and 2-17-110 were rendered ineffective by Ch. 33, Sp. L. June 1986, which transferred renovation funds to the long-range building debt service fund.
(3) Sections 7-15-4122 and 7-33-4203 were held to have been impliedly repealed by the state building code in 40 A.G. Op. 76 (1984).
(4) Sections 50-5-601 through 50-5-603 and 50-5-611 are identical to sections 50-5-421 through 50-5-424 and are therefore unnecessary.

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JUDICIARY COMMITTEE

50TH LEGISLATIVE SESSION

1987

Committee Members	District
Rep. Earl Lory, Chairman	59
Rep. John Mercer, Vice Chairman	50
Rep. Kelly Addy	94
Rep. Dave Brown	72
Rep. Tom Bulger	37
Rep. John Cobb	42
Rep. Fritz Daily	69
Rep. Paula Darko.	2
Rep. Ralph Eudaily	60
Rep. Leo Giacometto	24
Rep. Bud Gould	61
Rep. Ed Grady	47
Rep. Tom Hannah	86
Rep. Vernon Keller	83
Rep. Al Meyers	53
Rep. Joan Miles	45
Rep. Paul Rapp-Svrcek	51
Rep. Bill Strizich	41

Secretary

Renee Podell

Staff

John McMaster

Form CS-32
Rev. 1985

STATUS SHEET

50TH LEGISLATIVE SESSION

JUDICIARY COMMITTEE

HOUSE BILL NUMBER	ENTERED COM. DATE	DATE CON-SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON-CURRED IN DATE	BE NOT CON-CURRED IN DATE	BE CON-CURRED IN AMENDED DATE	BE NOT CONCURRE IN AS AMENDED DATE
13	12/29/87	1/12/87	1/12/87			1/12/87					
19	12/29/87	1/12/87	1/14/87			1/14/87					
21	12/29/87	1/7/87	1/9/87			1/9/87					
37	12/29/87	1/8/87	1/9/87			1/9/87					
42	12/29/87	1/9/87	1/9/87			1/9/87					
45	12/29/87	1/7/87	tabled 2/12/87								
53	1/2/87	1/9/87	1/9/87	1/9/87							
57	1/87	2/17/87 2/5/87	tabled 2/20/87								
70	1/5/87	1/15/87	2/2/87				2/2/87				
72	1/5/87	1/16/87	1/23/87		1/23/87						
73	1/5/87	1/14/87	1/22/87			1/22/87					
77	1/5/87	1/13/87	1/13/87			1/13/87					
78	1/5/87	1/13/87	tabled 2/12/87			2/19/87					
79	1/5/87	1/13/87	1/23/87			1/23/87					

Use a separate sheet for Senate Bills, House Bills, and Resolutions.

MINUTES OF THE MEETING
JUDICIAL COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

The meeting of the Judicial Committee was called to order by Chairman Earl Lory on January 9, 1987, at 8:00 a.m. in Room 312-D of the State Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL NO. 53: Each year a code bill is introduced and presented. (Exhibit A). The code commissioner is by law required to review the codes for errors, omissions and duplications. Representative Ralph Eudaily, House District #60, presented steps to show what is actually done. His first clarification started with page 3 of the bill on line 4, it matches section 2 of the green sheets. The word department in this section is not defined and is substituted with department of administration. It is a clarification. Another example to look at is section 62 on page 79, line 19. This is in reference to the sheriff's retirement board. The sheriff's retirement fund is handled by the P.E.R.S. board and is no longer handled by the sheriff's retirement board but the code still has that information in it, so it is logical that that be deleted.

Rep. Eudaily called on Greg Petesce, newly appointed acting code commissioner, to explain further the new procedure implemented this year. Mr. Petesce said that at the time this bill was drafted, each proposed provision that affected an agency was sent to that agency for its review. This insured the agency that no substitutive changes in the law had occured without the knowledge of the agency. All agencies have concurred with these changes. Mr. Petesce introduced a short form amendment in the green sheets to update some archaic terminology referring to aid to dependent children. The department of social rehabilitation services asked that a search of the code be done and wherever that term appeared that the substitute "aid to the families with dependant children" be inserted.

QUESTIONS (OR DISCUSSION) ON HOUSE BILL NO. 53: Representative Joan Miles asked Mr. Petesce if when he goes through the Supreme Court decisions and there is something declared unconstitutional, is it taken out of the code? Mr. Petesce replied that that has not been done in the past nor has it been done in this bill. Suggestive legislation files are kept of these things and presented to the Judiciary

committee for their consideration as to whether they wanted to address them.

There were no proponents or opponents and no further questions. The hearing on HB #53 was closed.

CONSIDERATION OF HOUSE BILL #42: Representative John Cobb, House District #42, sponsor of the bill, stated that the purpose of this bill was to clarify a ruling of the Montana Supreme Court. Rep. Cobb submitted amendments to this bill. (Exhibit B). In the past, the court defined what kind of duty a landowner had to someone who came onto his property and defined the status of trespasser, licensee and invitee. The court now states, in a brief way, that it is not going to care about status anymore. There will be one standard which is termed ordinary care. Two statutes in this bill deal with recreation and with whether a person coming onto a landowners property is an invitee or licensee.

SUPPORTERS: Mr. Scott Ross, on behalf of the coalition of stream access, went on record to support this bill.

Mr. Jim Flynn, Department of Fish, Wildlife and Parks, submitted written testimony. (Exhibit C). He supports the clarification of the legal standard governing landowner liability under two circumstances. The standard of wilful or wanton misconduct under present law and under the amendments of this bill, describe the duty owed by landowners or tenants toward recreationists portaging or using protage routes and toward persons recreating on land where no payment was made for the privilege.

Mr. Stan Bradshaw, State Council of Trout Unlimited, supports this bill in the fact that landowners should have limited liability.

Ms. Jean Klobnak, Montana Wildlife Federation, went on record to state that the federation supports this bill.

Representative Edward Grady supports HB #42 in hopes it will relieve landowners burdens.

QUESTIONS (OR DISCUSSION) ON HOUSE BILL NO. 42: Representative Tom Bulger, questioned Rep. Cobb regarding furnishing an example which would give the difference between the two standards of care. He explained the higher duty the landowner has if someone goes on his property with his knowledge. The landowner must make invitee aware of any existing dangers.

Representative Ralph Eudaily questioned Rep. Cobb regarding amendment two, which states "as otherwise provided by law".

Rep. Cobb asked John MacMaster, staff attorney, to explain this. Mr. MacMaster replied that Mr. Petesce decided that instead of specifically listing terms this particular term would be have a general use.

Representative Tom Hannah asked Rep. Cobb about the term recreational use of land. As an example he referred to a neighbors child that comes into his ditch and drowns. Whose duty would it be? Rep. Cobb answered by stating that the child was not using the ditch for recreational purposes so the duty is at a lower rate. Rep. Cobb explained that this bill will clarify but will not change the bill. No law is being rewritten.

There were no further proponents or opponents. Rep. Cobb closed.

EXECUTIVE SESSION:

ACTION ON HB #53: Rep. Gould moved that HB #53 DO PASS. The motion was seconded. Question was called, and all voted in favor with the exception of Rep. Hannah.

ACTION ON HB #42: Rep. Mercer moved that HB #42 DO PASS AS AMENDED. The motion was seconded. Question was called, and the vote was carried unanimously.

ACTION ON HB #21: Rep. Brown read the amendments to be added. (Exhibit D). He stated that he feels this is a reversion clause that basically says, if the Supreme Court upholds the South Dakota suit, the Montana law reverts back to existing statute, age 19. Rep. Brown moves the amendments. Discussion on the amendments follows: Rep. Addy tries to understand the mechanics of the bill and questions if we are amending the title or the exising amendment. Chairman Lory requests that John MacMaster, staff attorney, clarify this point. Mr. MacMaster states that if the United States Supreme Court strikes down the federal law that is requiring us to amend this, then what will happen under the new section 16 that Rep. Brown is putting in, is that the first ten (10) sections now in the bill will be repealed. The first five (5) sections which are essentially the grandfather will be repealed. Section 6-10 which then sets the age at 21 will also be repealed. Section 11, 12, 13, 14, and 15 of Rep. Brown's amendments will go into effect. They are the law as it currently reads. The effective date is essentially in amendment #5.

Rep. Miles feels that the bill amendments do not look different to her.

STANDING COMMITTEE REPORT

January 9, 19 87

Mr. Speaker: We, the committee on JUDICIARY

report House Bill No. 53

☒ do pass ☐ be concurred in ☐ as amended
☐ do not pass ☐ be not concurred in ☐ statement of intent attached

Chairman

"AN ACT TO GENERALLY REVISE AND CLARIFY THE MONTANA CODE ANNOTATED; AND REPEALING SECTIONS 2-17-106, 2-17-109, 2-17-110, 7-15-4122, 7-33-4203, AND 50-5-421 THROUGH 50-5-424, MCA."

FIRST reading copy (WHITE color)

MONTANA STATE SENATE

JUDICIARY COMMITTEE

50TH LEGISLATURE

COMMITTEE MEMBERS: Senator Joe Mazurek, Chairman
Senator Bruce Crippen, V. Chairman
Senator Tom Beck
Senator Al Bishop
Senator Chet Blaylock
Senator Bob Brown
Senator Jack Galt
Senator Mike Halligan
Senator Dick Pinsoneault
Senator Bill Yellowtail

STAFF ATTORNEY: Valencia Lane

COMMITTEE SECRETARY: Mary Huber

BOOK: 1 of 4

INCLUSIVE DATES: January 6 - January 30, 1987

CHAIRMAN--SEN. JOE MAZUREK
NORMAL SCHEDULE==> SITE: ROOM 325 DAYS: MON THRU FRI TIME: 10:00 A.M.

SECRETARY-MARY HUBER

--BILL NO---	REFER DATE---	HEARING DATE---	CONSIDERATION DATES----------	COMMITTEE ACTION----------	REREFERRED TO COMM----	DATE OUT-
HB0013	1/21	2/05		CONCUR AS AMENDED		3/3
MERCER, JOHN			EXEMPT IN BANKRUPTCY ACTION ALL PROPERTY OF INDIVIDUAL EXEMPT UNDER MCA			
HB0019	1/24	2/05		CONCUR AS AMENDED		3/9
MERCER, JOHN			GENERAL REVISION OF LAWS RELATING TO PROPERTY EXEMPT FROM EXECUTION			
HB0021	1/21	2/05		CONCUR AS AMENDED		3/4
FRITZ, HARRY			RAISE LEGAL DRINKING AGE FROM 19 TO 21; PROVIDE EFFECTIVE DATES			
HB0037	1/21	2/10		CONCUR		3/5
BRADLEY, DOROTHY			DEFENDANT'S RECORD EXPUNGED UPON DISMISSAL OF CHARGES			
HB0042	1/21	3/03		CONCUR AS AMENDED		3/3
COBB, JOHN			CLARIFY LEGAL STANDARD GOVERNING LANDOWNER LIABILITY			
HB0053	1/21	3/03		CONCUR		3/11
EUDAILY, RALPH			GENERALLY REVISE MCA			
HB0058	1/27	3/04		CONCUR		3/4
KEENAN, NANCY			LET PSYCHOLOGISTS EXAMINE PERSONS WHEN MENTAL DEFECT IS A CRIMINAL ISSUE			
HB0065	1/21	3/04		CONCUR		3/4
PECK, RAY			SERVING OUT TRAFFIC FINES AT $10 PER DAY			
HB0073	3/03			CONCUR AS AMENDED		3/21
BRADLEY, DOROTHY			APPLICATION OF MOTOR VEHICLE LAWS TO MINORS -- EXCEPT PENALTY IMPOSITION			
HB0077	1/21	2/12		CONCUR		3/4
BROWN, JAN			ALLOWS PATERNITY ACTION BY STATE AGENCY UNTIL CHILD BECOMES 21 YEARS OF AGE			
HB0078	3/02	3/13		CONCUR AS AMENDED		3/19
BROWN, JAN			PERMIT ATTACHMENT OR GARNISHMENT OF WORKERS' COMP. TO PAY CHILD SUPPORT			

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

March 3, 1987

The thirty-fourth meeting of the Senate Judiciary Committee was called to order at 10:00 a.m. on March 3, 1987, by chairman Joe Mazurek, in Room 325 of the state Capitol.

ROLL CALL: All members were present. Senators Crippen, Brown and Halligan arrived late.

CONSIDERATION OF HOUSE BILL 53: Representative Ralph Eudaily, Missoula, presented the bill with all of its amendments. (Exhibit 1) He explained HB 53 is at the request of the Code Commissioner of the Legislative Council and corrects errors found in the MCA since the last legislative session.

Greg Petesch, Legislative Council, stated the council went through a new procedure this time with Code Commissioners by giving copies of the changes to all agencies, and they in return gave us written testimony on what they agreed with and what they didn't.

DISCUSSION ON HOUSE BILL 53: Senator Blaylock asked if there was any mischief in this bill. Greg Petesch, by word of honor, said there was none.

Representative Eudaily closed the hearing.

Valencia Lane presented to the committee, repealers for HB 53. (Exhibit 2)

CONSIDERATION OF HOUSE BILL 42: Representative John Cobb, Augusta, opened the hearing on HB 42. (Exhibit 3)

PROPONENTS: Jim Flynn, Department of Fish, Wildlife and Parks, supported the bill. (Exhibit 4)

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COMMITTEE ON Judiciary

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check On Support	Op
Scott Ross	Coalition for Stream Access	HB42	✓	
Esther Sternberg	MWF	HB42	✓	
Mona Teigen	MT Stockgrowers + Cattlemen	42	✓	
Greg Petesch	Leg. Counc.	HB53		
Ted Doney	Mont. Water Devel. Assn.	HB42	X	
Jeanne Kolstad	MWF	HB42	X	
Lorna Frank	MT. Farm Bureau	HB-42	X	
[illegible]	Attorney	HB53	✓	
John Maynard	Tort Claims Div.			

(Please leave prepared statement with Secretary)

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BILL NO. HB53

CODE COMMISSIONER REPORT

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Section 1. 2-15-1857. Makes permanent bracketed language inserted to clarify that the governor has the appointing power.

Section 2. 2-18-703. In (4) substitutes "department of administration" for "department" which is not defined.

Section 3. 5-11-206. In (3) substitutes "code sections affected list" for "code index" to accurately reflect the content of the document.

Section 4. 5-11-208. Revises internal reference which included 5-11-204, the section authorizing the secretary of state to assign chapter numbers, not the legislative council.

Section 5. 7-2-2730. Section 6. 7-2-2748. Section 7. 7-2-2749. Revise reference to reflect repeal of 7-7-2105.

Section 8. 7-3-4264. Section 9. 7-3-4265. Revise reference to reflect repeal of 7-3-4263.

Section 10. 7-4-2631. In (1)(j) clarifies that fees are no longer contained in the statutes but are set by rule. (See 30-9-403(5) and (12).)

Section 11. 7-6-308. Removes reference to "7-6-304" because mill values are not used in that section.

Section 12. 7-6-4423. In (1)(c) substitutes "7-12-4182" for "7-12-4181" because that is the section providing for declaring the assessment delinquent.

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Section 13. 7-6-4439. Revises reference to reflect repeal of 7-6-4433 and 7-6-4435.

Section 14. 7-6-4463. Revises outline form to remove internal inconsistency.

Section 15. 7-7-2302. Revises reference to reflect repeal of 7-7-2208 and 7-7-2271.

Section 16. 7-7-4302. Revises reference to reflect repeal of 7-7-4207 and 7-7-4271.

Section 17. 7-12-1103. Substitutes "7-12-1121" for "7-12-1112" to reflect that board of trustees is authorized in 7-12-1121.

Section 18. 7-12-4429. In (2) substitutes "7-12-4402" for "7-12-4405" because districts are created under 7-12-4402.

Section 19. 7-13-114. Deletes reference to "the powers and duties of the county commissioners" because not all sections referred to relate to county commissioners and adds language clarifying that the referenced sections are inapplicable if in conflict with Title 7, chapter 13, part 1.

Section 20. 7-13-2242. Substitutes "7-13-2239" for "7-13-2240" because 7-13-2239 contains the requirement for naming the person to whom the petition is returned.

Section 21. 7-13-2510. Section 22. 7-14-1133. Section 23. 7-14-2745. Section 25. 7-15-4322. Section 26. 7-31-112. Section 29. 7-34-2415. Section 71. 20-9-410. Section 128. 67-11-303. Section 129. 69-4-332. Clarify that 17-5-102 no longer limits interest but allows the governing body to set interest rates.

Section 24. 7-14-2823. In (2)(a) and (2)(c) inserts "on" for grammatical reasons.

Section 27. 7-32-4153. Revises reference to reflect the fact that the word "mayor" is not used in 7-32-4155 through 7-32-4159.

Section 28. 7-34-2131. Removes reference to "second or third class" school districts because there is no longer a difference in bonding for districts based on class.

Section 30. 10-4-101. Section 36. 15-6-135. Section 37. 15-8-111. Section 38. 15-8-201. Section 44. 15-23-701. Section 45. 15-24-901. Section 66. 20-3-108. Section 76. 30-10-103. Section 77. 30-10-204. Section 84. 33-20-1111. Section 90. 37-16-404. Section 93. 37-51-301. Section 94. 37-72-101. Section 97. 39-71-403. Section 105. 46-18-222. Section 106. 46-18-231. Section 107. 46-19-103. Section 111. 53-5-503. Section 112. 53-6-141. Section 113. 53-20-202. Section 115. 61-5-121. Section 131. 71-3-302. Section 138. 75-1-1101. Section 143. 82-4-232. Section 145. 85-2-322. Section 148. 85-2-507. Section 149. 85-8-350. Section 154. 90-8-104. Correct erroneous subsection references.

Section 31. 13-1-101. In (10) substitutes "or" for "and" because reference should be disjunctive rather than conjunctive.

Section 32. 13-1-203. Removes reference to mileage and expenses "for county officials" because 2-18-501 through 2-18-503 set rates for all state employees.

Section 33. 13-17-103. In (8) substitutes "is" for "will be" to reflect contractual requirement rather than future provision.

Section 34. 13-37-303. In (1) in last sentence inserts "to" for proper grammar.

Section 35. 15-1-101. Section 46. 15-24-1102. Section 47. 15-24-1103. Extend reference to include all classes of property.

Section 39. 15-10-203. Section 40. 15-10-204. Insert "or proposed" before "budget" to reflect name change of county preliminary budget created by Ch. 206, L. 1985.

Section 41. 15-16-305. Substitutes third "Tuesday" of February for third "Monday" because third Monday is Washington's birthday, a legal holiday.

Section 42. 15-17-101. Moves "that" in lead-in phrase for proper outline form.

Section 43. 15-23-616. Deletes reference to "net proceeds" because 15-23-602 does not use that phrase.

Section 48. 15-30-111. In (2)(i) inserts reference to 19-13-1003, to reflect tax exemption contained in firefighters' unified retirement system.

Section 49. 15-30-321. In (1) in second parenthetical makes language consistent with first parenthetical.

Section 50. 15-31-406. Revises reference to reflect repeal of 15-31-542.

Section 51. 15-35-102. In (12) revises definition to reflect that "surface mining" is not defined in 82-4-203.

Section 52. 15-59-121. Revises reference to reflect repeal of 15-59-103 and renumbering of 15-59-111 as this section.

Section 53. 16-1-105. Revises section to reflect repeal of Title 16, chapter 5.

Section 54. 16-1-306. Inserts references to reflect statutory assignment of revenues.

Section 55. 17-5-1202. Corrects improper citation to federal act.

Section 56. 17-6-103. Adds reference to bonds issued under Title 7, chapter 12, part 42, for consistency because part 42 is a continuation of part 41.

Section 57. 17-6-302. Substitutes "17-6-306" for "17-6-305" to reflect establishment of fund in 17-6-306.

Section 58. 18-1-103. In (1) and (4) deletes "18-1-112" because "resident" is not used in 18-1-112.

Section 59. 18-2-201. In (1) substitutes "85-1-219" for "18-1-219" to correct a typographical error and to correctly reflect codification of section 1 of Ch. 498, L. 1985. In (3) inserts "of" for grammatical purposes.

Section 60. 19-3-906. In (2)(b) inserts "he" for grammatical purposes to conform with (2)(a).

Section 61. 19-4-902. Revises section to reflect that only superannuation "allowance" is prescribed under Title 19, chapter 4, part 8.

Section 62. 19-7-101. Section 63. 19-7-405. Delete references to sheriffs' retirement board which no longer exists. System is administered by public employees retirement board.

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Section 64. 19-10-202. In (2) in four places inserts references to town to reflect the content of the section.

Section 65. 19-11-203. Deletes reference to Title 19, chapter 11, part 3, which was repealed.

Section 67. 20-5-301. In (3)(e) revises text for proper outline form.

Section 68. 20-7-117. In (1) in two places substitutes "have" for "has" for proper grammatical use of tense.

Section 69. 20-9-165. Deletes "in accordance with 20-15-302" to reflect repeal of 20-15-302.

Section 70. 20-9-343. In (3)(c) inserts language to reflect distribution of funds under 15-35-108, in (3)(g) deletes redundant language, and in (4) removes bracketed language because there is no longer a permissive account.

Section 72. 20-15-403. Deletes reference to 7-8-2215 because "school district" is not used in that section.

Section 73. 20-15-404. In (4) extends reference to include 20-7-713.

Section 74. 20-25-302. At end of (2) clarifies that nonresident students are not defined in 20-25-421, but that charges are made under 20-25-421 for nonresident students.

Section 75. 30-4-302. Numbers subsections to reflect MCA style.

Section 78. 32-1-803. Revises reference to reflect repeal of 32-1-304.

Section 79. 33-1-104. Section 80. 33-1-313. Section 81. 33-1-317. Section 85. 33-30-111. Section 86. 33-30-112. Section 87. 33-30-113. Section 88. NEW. Make 33-30-1012, which was enacted without a codification instruction, subject to the general provisions of the insurance law.

Section 82. 33-17-211. In (9) clarifies that 33-17-212 requires an examination but does not prescribe the examination fee.

Section 83. 33-20-103. Revises reference to reflect renumbering of 33-20-109 as 33-20-131.

Section 89. 35-12-1308. Revises reference to reflect that this section itself is not included in those which may be violated.

Section 91. 37-30-425. In (7) revises language to conform to 37-30-203, which does not describe offenses but grants rulemaking authority.

Section 92. 37-42-305. Deletes reference to 37-42-301 because it does not refer to an examination.

Section 95. 39-51-201. In (4) hyphenates "52-consecutive-week" for proper usage, and in (11) inserts "to be paid" for readability.

Section 96. 39-71-118. In (1)(d) substitutes "superintendent of public instruction" for "board of public education" to reflect the superintendent's authority to approve vo-tech programs.

Section 98. 40-4-209. In (5) clarifies that the department of revenue is the agency to adopt guidelines for child support enforcement.

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Section 99. 41-3-611. Substitutes "41-3-610" for "41-3-609" because other placement proceedings are held pursuant to 41-3-610.

Section 100. 41-5-206. Deletes (1)(a)(ii)(F) because it is covered under (1)(a)(i) and applies to youths over 12, and corrects internal reference as a result of this change.

Section 101. 41-5-523. In (2) inserts "a" for grammatical reasons.

Section 102. 44-1-403. Substitutes "five" for "12" to reflect the proper number of highway districts.

Section 103. 44-1-1005. In (3) substitutes "provided for" for "defined" because subsection (1)(a) does not define motor vehicle inspections but grants rulemaking authority.

Section 104. 46-18-201. In (4) corrects reference and adds language to clarify that the mandatory minimum sentence applies to aggravated assault rather than felony assault.

Section 108. 50-5-101. In (19) substitutes "youth care facilities" for "boarding or foster homes for children" to reflect the terminology used in Title 41, chapter 3.

Section 109. 50-73-102. Deletes definition of "following shot" because it is not used in Title 50, chapter 73.

Section 110. 53-2-813. Deletes reference to subsection (1)(b) and deletes the subsection in its entirety because it is no longer applicable.

Section 114. 61-3-102. Makes permanent the bracketed language "in performing its duties under this title".

Section 116. 61-9-402. In (6) deletes reference to subsections (1), (2), and (3) because amber lights aren't mentioned in those subsections.

Section 117. 61-10-108. Section 118. 61-10-122. Section 119. 61-10-124. Section 120. 61-01-128. Section 121. 61-10-141. Section 122. 61-10-142. Section 123. 61-10-143. Clarify that department referred to is highways. Title definition found in 61-1-301 refers to department of justice.

Section 124. 61-11-203. Makes subsection (3) freestanding for proper outline form.

Section 125. 67-3-101. In (2) inserts "sales" before "dealers" to conform to first clause of (2).

Section 126. 67-3-201. Section 127. 67-3-202. Clarify that subsection (3) of 67-3-201 applies to itself.

Section 130. 69-14-805. Revises reference to reflect repeal of 69-14-802.

Section 132. 71-3-603. In (1) substitutes "71-3-605" for "71-3-606" because 71-3-605 provides for filing by the lien claimant, and in (2) substitutes "71-3-606" for "71-3-605" because 71-3-606 provides for filing the claim of the landowner.

Section 133. 71-3-611. Substitutes "71-3-603" for "71-3-605" because 71-3-603 contains the 3-month time limit.

Section 134. 72-11-103. Substitutes "an ancestor" for "the ancestors" for grammatical propriety.

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Section 135. 72-16-454. Substitutes "35%" for "65%" to reflect 1983 amendment of 72-16-452.

Section 136. 72-17-206. Substitutes "72-17-301(2)" for "72-17-310(2)" in two places to correct error and reflect renumbering of sections.

Section 137. 72-17-311. Removes an unclear reference to a subsection and rearranges terms for clarity.

Section 139. 75-20-216. Revises reference to reflect repeal of 75-20-214.

Section 140. 76-3-103. In (12) and (13) removes reference to former title of act and makes parenthetical code citation permanent.

Section 141. 80-4-427. Substitutes "80-4-428" for "80-4-429" because the criminal penalty for operating without a license is found in 80-4-428.

Section 142. 81-8-216. In two places revises reference to reflect repeal of 81-8-257.

Section 144. 82-11-131. Revises last sentence for comprehension.

Section 146. 85-2-421. Section 147. 85-2-422. Revise reference to reflect repeal of 85-2-425.

Section 150. 85-8-624. In (3)(a), (3)(c), and (3)(d) corrects erroneous subsection reference, and in (3)(b) substitutes "85-8-302" for "85-8-304" because 85-8-302 provides for the manner of conducting the election.

Section 151. 87-1-209. Clarifies that the notice requirement is found in subsection (3)(b) of this section.

Section 152. 87-3-101. Substitutes "61-1-202" for "61-1-201" because 61-1-202 defines public highway.

Section 153. 87-5-109. At end of (2) substitutes "87-5-105" for "87-5-104" because 87-5-105 grants the authority for issuing regulations.

Section 155. NEW. Requested by department of social and rehabilitation services to revise archaic terminology.

Section 156. Repealer. (1) Section 2-17-106 is no longer necessary, particularly because of the construction of the DNRC building. Section 2-17-101 governs space assignment generally.

(2) Section 2-17-109 and 2-17-110 were rendered ineffective by Ch. 33, Sp. L. June 1986, which transferred renovation funds to the long-range building debt service fund.

(3) Sections 7-15-4122 and 7-33-4203 were held to have been impliedly repealed by the state building code in 40 A.G. Op. 76 (1984).

(4) Sections 50-5-601 through 50-5-603 and 50-5-611 are identical to sections 50-5-421 through 50-5-424 and are therefore unnecessary.

MGMT86:6301a:ee:rev.6357g:jj

2-17-106. Highway building space assignment. (1) The department of administration shall assign space in the present highways building, upon completion of the new highways complex, to the following state departments and in the following order of priority:

(a) first to the departments of agriculture and livestock; and

(b) second to the department of natural resources and conservation.

(2) The department of administration shall assign such space with the purpose of maintaining each department's Helena-based offices, in their entirety, in a single central location. When considering assignment of space under this section, the department shall insure that those departments with first priority are provided sufficient space for future growth and that growth of first priority departments, for purposes of space assignment, takes precedence over growth of second and third priority departments.

(3) After assignment to the three named departments, any additional available space may be assigned by the department in accordance with 2-17-101.

History: En. Sec. 1, Ch. 479, L. 1975; R.C.M. 1947, 82-3308.1.

Repealed by HB 53

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EXHIBIT NO. 2
DATE March 3, 198
BILL NO. HB 53

2-17-109. Remodeling and renovation — senate chambers and former supreme court chambers to be preserved. (1) Notwithstanding the provisions of Title 5, chapter 17, part 1, the department of administration shall proceed with the plans for the remodeling and renovation of the state capitol for which moneys were appropriated by the 47th legislature and reappropriated by the 48th legislature.

(2) In proceeding with such plans, the department of administration shall consult with the capitol building and planning committee provided for in 5-17-101; however, such plans and the implementation of such plans need not be reported to the 49th legislature before implementation.

(3) The department of administration, in the implementation of such plans, shall keep and maintain the senate chambers in its present location.

(4) If future senate bodies should determine that the location of the senate chambers is to be moved, the department of administration shall keep and maintain the physical structure and location of the present senate chambers as a single room which shall be used for legislative purposes. Such room shall not be divided in any manner, and the artwork and height of the ceiling shall be maintained and preserved.

(5) The department of administration shall keep and maintain the physical structure and location of the supreme court chambers, which were occupied by the Montana supreme court until the new justice building was completed and dedicated in 1983, as a single room which shall be used for legislative committee purposes. Such room shall not be divided in any manner, and the artwork and height of the ceiling shall be maintained and preserved.

History: En. Sec. 2, Ch. 700, L. 1983.

2-17-110. Allocation of senate and house of representatives workspace. In the implementation of the plans for remodeling and renovation of the state capitol referred to in 2-17-109, the department of administration, after having allocated adequate space for the leadership of the house of representatives and the senate and staff, work, and committee room space, shall, with respect to any space in excess of such needs, divide any office space on a proportionate basis determined by the number of house of representatives members and the number of senate members.

History: En. Sec. 3, Ch. 700, L. 1983.

Cross-References

Legislative chambers and office space, 2-17-101.

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EXHIBIT NO. 2
DATE 3-3-87
BILL NO. H.B. 5

7-15-4122. Construction specifications. The city or town council has power to:

(1) prescribe the thickness, strength, and manner of constructing stone, brick, and other buildings; and

(2) order the construction of fire escapes thereon.

History: En. Subd. 51, Sec. 5039, R.C.M. 1921; amd. Sec. 1, Ch. 115, L. 1925; amd. Sec. 1, Ch. 20, L. 1927; re-en. Sec. 5039.50, R.C.M. 1935; R.C.M. 1947, 11-953.

7-33-4203. Authority to restrict building to protect against fire. For the purpose of guarding against fire, the city or town council has power to prescribe the limits within which wooden or combustible buildings must not be erected, placed, or repaired and to establish fire limits within the city or town.

History: En. Subd. 26, Sec. 5039, R.C.M. 1921; amd. Sec. 1, Ch. 115, L. 1925; amd. Sec. 1, Ch. 20, L. 1927; re-en. Sec. 5039.25, R.C.M. 1935; R.C.M. 1947, 11-928.

Cross-References

Municipal and county building codes, Title 50, ch. 60, part 3.

Fire safety in public buildings, Title 50, ch. 61.

Removal of fire hazards, Title 50, ch. 62, part 1.

50-5-421. Short title. Sections 50-5-421 through 50-5-424 may be cited as the "Family Practice Training Act of 1983".

History: En. Sec. 1, Ch. 668, L. 1983.

50-5-422. Definitions. As used in 50-5-421 through 50-5-424, the following definitions apply:

(1) "Family practice" means comprehensive medical care, with particular emphasis on the family unit, in which the physician's continuing responsibility for health care is not limited by the patient's age or sex or by a particular organ system or disease entity.

(2) "Residency training" means a community-based family practice program to train family practice resident physicians sponsored by one or more community hospitals and physicians in Montana for inpatient and outpatient training.

(3) "Resident physician" means any physician in advanced medical specialty training.

History: En. Sec. 2, Ch. 668, L. 1983.

50-5-423. Montana family practice training program. (1) There is created a Montana family practice training program to train resident physicians in family practice.

(2) The program is under the authority of the department, and the department shall contract with a nonprofit corporation organized under the laws of Montana or certified to do business in Montana to coordinate the training of family practice resident physicians. The officers and directors of the corporation must be qualified by education, experience, and interest to administer and oversee family practice resident physician training activity.

History: En. Sec. 3, Ch. 668, L. 1983.

50-5-424. Funding limitations. (1) Money appropriated for residency training is in addition to any other money appropriated for medical educational programs and may not supplant funds for existing medical educational programs.

(2) No funds appropriated by the legislature to fund residency training may subsidize the cost incurred by patients.

History: En. Sec. 4, Ch. 668, L. 1983.

the fee deals with filing in the wrong county, so the person will have to refile again in the right county. He said the House deleted that.

Representative Pistoria closed.

EXECUTIVE ACTION:

ACTION ON HB 53: Senator Blaylock moved to strike the previous adopted amendments because in the bill Valencia found a statute that will keep the maintainance of the Old Supreme Court Chambers up. The motion CARRIED. Senator Blaylock moved the bill BE CONCURRED IN. The motion CARRIED.

CONSIDERATION OF HJR 21: Representative John Mercer of Polson presented HJR 21 (see Exhibit 3).

PROPONENTS: None

OPPONENTS: Pat Melby, Montana State Bar Association, said that HJR 21 will cause someone to pay a $100 filing fee for a second judge to come to a county and do a trial. He said the first judge was disqualified, but the first judge picks the second judge.

Karl Englund, Montana Trial Lawyers Association, opposed the bill because a second judge will have to be "broken in" to a case by a lawyer that has been with the case for months and then part of the trial which the first judge was disqualified at.

John Hoyt, Great Falls lawyer, opposed the bill also.

DISCUSSION ON HJR 21: Senator Pinsoneault asked what the sister states do with this kind of situation. Mr. Hoyt said some of the states can have up to three judges for a trial, while other only allow one no matter what. Mr. Englund commented that he rarely uses a challenge to have another judge come into one of his trials.

Representative Mercer closed on HJR 21.

EXECUTIVE ACTION

ACTION ON HB 664: Senator Blaylock moved the bill BE CONCURRED IN. The motion CARRIED.

ACTION ON HB 396: Senator Pinsoneault moved the bill BE CONCURRED IN. The motion CARRIED with Senator Blaylock voting no.

ACTION ON HB 558: Senator Yellowtail commented that there are ways to conceal alcohol in drinks and drugs also. Senator Crippen said the question is if someone put something in your drink, if you are responsible

ROLL CALL

Judiciary COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date March 11

	PRESENT	ABSENT	EXCUSED
NAME			
Senator Joe Mazurek, Chairman	X		
Senator Bruce Crippen, Vice Chairman	X		
Senator Tom Beck	X		
Senator Al Bishop	X		
Senator Chet Blaylock	X		
Senator Bob Brown	X		
Senator Jack Galt	X		
Senator Mike Halligan	X		
Senator Dick Pinsoneault	X		
Senator Bill Yellowtail	X		

Each day attach to minutes.

STANDING COMMITTEE REPORT

March 11 19 87

MR. PRESIDENT

We, your committee on SENATE JUDICIARY

having had under consideration HOUSE BILL No. 53

Third reading copy (blue color)

Generally revise MCA
Eudaily (Yellowtail)

Respectfully report as follows: That HOUSE BILL No. 53

~~DO PASS~~

BE CONCURRED IN

~~DO NOT PASS~~

Senator Mazurek Chairman.